REMARKS

In the Office Action dated February 27, 2003, claims 1-5, 8-15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,085,976, of Sehr (the Sehr patent). Claims 6-7 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '976 patent. In response, Applicant cancels claims 1-18 and adds new claims 19-38 with independent claims 19, 28, and 36, where canceled claims 1-9, 10-17, and 18 are comparable to new claims 19-27, 28-35, and 36, respectively. Applicant asserts that new claims 19-38 are patentable over the cited prior art as discussed below with reference to the Examiner's rejections with respect to the canceled claims.

I. Summary of the Present Invention in Contrast with the Cited Art

Prior art patents, including that of Sehr, disclose the use of a smart card wherein a value is added to a card. When the value of the card is exhausted, then the value must be refreshed. A reader which reads from the smart card allows access, e.g., through a transit gate, based upon how much value remains on the card, and whether the value is sufficient to cover the fare associated with entering the gate. Alternately, for values based on a day pass, the patron must use the pass during specific dates. For example, prior art systems, such as that disclosed in the Sehr patent, apply the monetary value to fares from the *purchase day and forward*, or allow access to the transit system for a set number of consecutive days *in the future*. However, it is possible that there is/was a better fare package available to the patron after/before the purchase date. In the prior art system, this does not change the patrons fare package, that is, he or she is permitted a number of rides to the purchased value or for the purchased number of days, and there is no adjustment for better available fares.

In contrast, the smart card reader of the present invention performs an

additional analysis if the smart card is identified as participating in a transit "best fare" program. Specifically, the reader analyzes <u>completed</u> transactions stored on the card for a number of days starting from a present day and <u>back in time</u>. This time period is referred to as a "rolling" time period. The reader compares the sum of the value of the <u>completed</u> transactions against pre-established best fare price points. A sample price point is, e.g., a 7 day pass for $25, meaning that the patron may ride the system for up to 7 days for $25. Thus, if the patron adds $30 to his or her card 5 days prior and exhausts $25 in the 5 days, then the patron may ride for free for the next two days. Thus, the patron is getting the "best" fare available which is up to 7 days for $25. Notice that when the patron added $30, he did not necessarily select the 7day/$25 pass. In prior art system, the patron must specifically choose the best option, if he knows about it. However, in the present system the patron does not have to be concerned with choosing the best fare option since the reader, in conjunction with the transit central computer, tracks the patron's card usage and determines the best available fare for the patron. (Please refer to the specification paragraphs [0024] through [0034] for further details of the invention.)

In summary, a central computer of a mass transit system of the present invention includes a best fare processing device that stores best fare "price points" that are downloaded to transit devices, such as transit gates and fare boxes, etc. A price point is a monetary value that corresponds to travel on the mass transit system for a set number of days. These price points represent best fare options that are available to the patrons. The patron adds a monetary value to her smart card, i.e, a transit fare pass. The transit devices determine that the fare pass is valid for a "rolling time" that is based upon all available best fare packages, i.e., price points.

II. Response to Rejection Under 35 U.S.C. 102(e) and 35 U.S.C. 103(a)

The Examiner rejects the (canceled) independent claims 1, 8, and 18 under 35 U.S.C. 102(e) as being anticipated by the Sehr patent. Dependent (canceled) claims 6-7 and 16-17 are rejected under 35 U.S.C. 103(a) as unpatentable over Sehr. Applicant respectfully traverses these rejections.

To anticipate a claim under 35 U.S.C. sections 102(a), (b), or (e), the reference must teach every element of the claim. (See MPEP 2131.) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Emphasis added) (Verdegaal Bros. v. Union Oil Co. of California; see also MPEP 2131.) "The identical invention must be shown in as compete detail as is contained in the ... claim." (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131.) Further, any claim depending from base claims not anticipated or made obvious by the prior art also are not anticipated or made obvious by the prior art since the dependent claims comprise all of the elements of the base claims.

The Sehr patent does not teach each and every element of new independent claims 19, 28 and 36, as discussed below. Thus, Applicant respectfully request that the Examiner issue a notice of allowance for all claims, 19-38.

a. Independent claim 19, and dependent claims 20 - 27

Independent claim 19 is not anticipated or obvious in view of Sehr since Sehr fails to teach or suggest each and every element of independent claim 19. Specifically, claim 19 comprises, among other things,

> "the best fare processor for analyzing a rolling time period comprising a portion of the fare transaction data stored on the smart card against the at least one price point of the each price point table of the plurality of price point tables, the rolling time period having a start date and an end date, the

best fare processor for determining the best fare for the rolling time period when a sum of the purchased fares for the rolling time period is at least equal to the maximum fare of the at least one price point."

Sehr neither teaches nor suggests analyzing completed fare transactions on the smart card against best fare price points as claimed in claim 19. In the office action, page 3, the Examiner states that Sehr discloses in column 15, lines 29-37, "comparing the fare transaction data stored on the smart card to a plurality of price points of a price point table of a plurality of price point tables to determine the best fare available to the patron" (as claimed in the canceled claims). The new independent claim 19 claims the above similar element. The Examiner's cited section of Sehr, column 15, lines 29-37, does not teach or suggest analyzing completed fare transactions against best fare price points. In contrast this portion of the Sehr patent states that "the service-related data comprises, for example, a set of benefits data....Such benefits may include advanced seat reservations, selected upgrades, free admission to events, automated check-in...." This section does not teach a best fare processor in the mass transit device, e.g., a transit gate, which is analyzing *past* fares (a fare transaction IS a past fare because it necessarily has happened). Rather, this section discusses unused *future* benefits associated with a card.

The remaining sections of the Sehr patent cited by the Examiner on Pages 2 and 3 of the Office Action also do not teach the claimed invention. Further, Applicant cannot identify any disclosure in Sehr which discusses analyzing fare transactions for rolling time periods against price points as claimed in claim 19.

Thus, Applicant asserts that new claim 19, and dependent claims 20-27, is patentable over Sehr since Sehr neither teaches or suggests the claimed invention. Thus, Applicant respectfully requests that the Examiner issue a notice of allowance for claims 19-27.

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b. Independent claim 28, and dependent claims 29-35

Independent claim 28 is not anticipated or obvious in view of Sehr since Sehr fails to teach or suggest each and every element of independent claim 28. Specifically, claim 28 comprises, inter alia,

> "downloading at least one price point table to the at least one mass transit device, the at least one price point table having at least one price point comprising a maximum fare and a maximum number of days;
> reading the plurality of fare transactions from the smart card; and
> comparing a sum of the purchased fare values for a time period to the at least one price point of the at least one price point table, the time period comprising at least a portion of the plurality of fare transactions defined by a start date and an end date."

Sehr neither teaches not suggest comparing a sum of at least a portion of the past fare transactions to maximum fares of price points. In other words, Sehr does not disclose using information about past fare transactions to provide the patron with the best fare available to the patron. Further, Applicant cannot identify any disclosure of Sehr where the *past* transactions are analyzed to determine a best fare of a time period including those *past* transactions as well as the *present day and forward* transactions.

Thus, Applicant asserts that new claim 28, and dependent claims 29-35, is patentable over Sehr since Sehr neither teaches or suggests the claimed invention. Thus, Applicant respectfully requests that the Examiner issue a notice of allowance for claims 28-35.

c. Independent claim 36, and dependent claims 37-38.

Independent claim 36 is not anticipated or obvious in view of Sehr since Sehr fails to teach or suggest each and every element of independent claim 36. Specifically, claim 36 comprises, among other things,

> "the best fare processor for comparing the fare transaction data stored on the smart card to the maximum number of days and the maximum fare of the each price point of the plurality of price points to determine the best fare available to the patron for a rolling time period, the rolling time period comprising at least a portion of the plurality of days."

Sehr does not teach or suggest a transit device, such as a transit gate, that has a best fare processor for comparing fare transaction data for a rolling time period to price points to determine whether a patron is eligible for a best fare. In other words, the claim is not anticipated by, or obvious in view of, the Sehr reference because the Sehr reference is silent on a transit device which applies a rolling time period to determine for a best fare, wherein the rolling time period includes past transactions. Rather, Sehr discloses future eligibilities.

Thus, Applicant asserts that new claim 36, and dependent claims 37-38, is patentable over Sehr since Sehr neither teaches or suggests the claimed invention. Thus, Applicant respectfully requests that the Examiner issue a notice of allowance for claims 36-38.
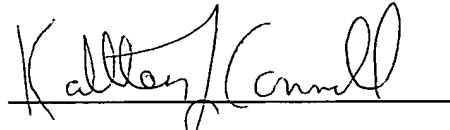
III. Conclusion

Applicant asserts that new claims 19-38 are neither anticipated under 35 U.S.C. 102(e) nor obvious under 35 U.S.C. 103(a) in view of the '976 patent to Sehr as this patent does not teach or suggest each and every element of the pending claims. Thus, Applicant respectfully requests that the Examiner issue a notice of allowance for all of the pending claims 19-38.

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Should the Examiner believe that prosecution of this application might be expedited by further discussion of the issues, he is invited to telephone the attorney for Applicants at the telephone number listed below.

Dated: July 28, 2003   By: _____

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